

Exhibit D

**BOROUGH OF EAST RUTHERFORD
RESOLUTION #57 – 2023**

**RESOLUTION OBJECTING TO PROPOSED CONSENT DECREE PROPOSED BY
THE DEPARTMENT OF JUSTICE AND THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY WITH 85 POTENTIAL RESPONSIBLE PARTIES AND
RESOLVING THEIR LIABILITY FOR DISCHARGING HAZARDOUS SUBSTANCES
INTO THE LOWER PASSAIC RIVER**

WHEREAS, a certain federal lawsuit was filed entitled Occidental Chemical Corporation v. 21st Century Fox America, Inc. et al., Civil Action No. 2:18-CV-11273, wherein Occidental Chemical Corporation (“OCC”) is seeking contribution and cost recovery under Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) for costs incurred, and costs to be incurred, in connection with the remediation of contaminated sediment in the Lower Passaic River (“LPR”); and

WHEREAS, the Borough of East Rutherford (the “Borough”) was named as one of the third party defendants along with the Passaic Valley Sewerage Commission (“PVSC”), of which the Borough is a member municipality; and

WHEREAS, the claims asserted against the Borough allege that the Borough’s discharge contained one or more contaminants of concern which contributed to the contamination of the sediments of the LPR; and

WHEREAS, the United States of America (“United States”), on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), filed a Complaint in the action entitled United States of America vs. ALDEN LEEDS, INC., et al., Civil Action No. 2:22-cv-07326, under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9607, as amended (“CERCLA”), seeking reimbursement of response costs, and declaratory judgment for future response costs, in connection with the release or threatened release of hazardous substances at the 17-mile Lower Passaic River Study Area (the “LPRSA”) of the Diamond Alkali Superfund Site in New Jersey (“the Site”).

WHEREAS, the Department of Justice and the EPA have announced a proposed consent decree (the “Consent Decree”) with 85 potential responsible parties (the “Releasees”) requiring them to pay a total of \$150 million to support the cleanup work and resolve their liability for discharging hazardous substances into the LPR; and

WHEREAS, the Consent Decree would release the Releasees from future cleanup costs even if evidence demonstrates that their share of liability should be greater; and,


WHEREAS, the Consent Decree would place an inequitable burden on the other parties including the Borough of East Rutherford; and,

WHEREAS, the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) have extended the public comment period on a proposed consent decree to March 22, 2023; **AND**

WHEREAS, the governing body of the Borough of East Rutherford wishes to comment and strongly believes that Consent Decree if accepted will result in increased costs to the remaining parties including the Borough of East Rutherford and, ultimately, our taxpayers;

NOW, THEREFORE, BE IT RESOLVED, that the governing body of Borough of East Rutherford strongly objects to the entry of the proposed Consent Decree and urges the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Justice (DOJ) to reconsider its position and not enter into the proposed Consent Decree; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Assistant Attorney General, Environment and Natural Resources Division, and should refer to United States v. Alden Leeds, Inc., et al., Civil Action No. 2:22-cv-07326, D.J. Ref. No. 90-11-3-07683/1..

	Yes/Aye	No/Nay	Abstain	Absent	<p>I hereby certify that this is a true and exact copy of the Resolution adopted by the Mayor and Council of the Borough of East Rutherford at the meeting held on the 21st day of March, 2023</p>  <p>Danielle Lorenc, RMC</p>
Ravettine	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
DeRosa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Lorusso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Cronk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Bulger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mayor Lahullier - tie only	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

BOROUGH OF EAST RUTHERFORD

Office of the Borough Clerk

MUNICIPAL BUILDING

ONE EVERETT PLACE

EAST RUTHERFORD, NJ 07073

X-RAYED

MAR 30 2023

DOJ MAILROOM

REFERRED
MAIL REFERRAL UNIT

MAR 30 2023

U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT AND NATURAL
RESOURCES DIVISION
APR 07 2023
EXECUTIVE OFFICE

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